

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE : BANKRUPTCY NO. 05-90026
: CHAPTER 7
EDWARD SKARBEEK, DEBTOR :

MEMORANDUM AND ORDER

Edward Skarbek ("Debtor") filed a voluntary Petition under Chapter 7 of the Bankruptcy Code on November 10, 2005. For bankruptcy cases filed after October 17, 2005, certain new requirements are imposed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA"). Included are requirements for education both before and after the filing of a bankruptcy Petition.

Mandatory Prebankruptcy Credit Counseling

An individual is ineligible to be a debtor under Title 11 unless, within 180 days preceding the filing, the debtor received from an approved, nonprofit budget and credit counseling agency a briefing that outlined the opportunities for available credit counseling and assisted such individual in performing a related budget analysis. 11 U.S.C. §109(h)(1).

Mandatory Postfiling Financial Management Course

The BAPCPA requires an individual debtor to complete an instructional course concerning personal financial management after filing the Petition in order to obtain a discharge in a Chapter 7 case. 11 U.S.C. §727(a)(11). An individual who fails to complete an instructional course concerning personal financial management shall not be granted a discharge. Id.

Discussion

Debtor completed the credit counseling requirement on October 28, 2005 as evidenced by Certificate Number B001536 issued by the Consumer Credit Counseling Service (“CCCS”). The certificate of credit counseling is filed at Document No. 2 on the docket.

At Document No. 13, Debtors filed DEBTOR’S CERTIFICATION OF COMPLETION OF INSTRUCTIONAL COURSE CONCERNING PERSONAL FINANCIAL MANAGEMENT (the “Certification”). Debtor indicates that, “I, Edward Skarbek, the debtor in the above-styled case hereby certify that on October 28, 2005, I completed an instructional course in personal financial management provided by Consumer Credit Counseling Service, an approved personal financial management instruction provider.”

Debtor does not understand that the two educational requirements represent two distinct requirements with different timing. The credit counseling requirement must be completed prior to the bankruptcy filing in order for an individual to be eligible to file a bankruptcy Petition. The financial management course must be completed “after filing the petition,” 11 U.S.C. §727(a)(11), in order to be eligible to receive a discharge.

There are two problems with Debtor’s Certification. Debtor filed this bankruptcy Petition on November 10, 2005. The Certification indicates that Debtor completed his financial management course on October 28, 2005, prior to the filing date. The financial management course must be completed “after filing the petition.” 11 U.S.C. §727(a)(11). Further, Consumer Credit Counseling service indicates that, at the present time, they only provide credit counseling service, the first educational requirement, and do not provide a financial management course to satisfy the second educational requirement.

It is therefore ORDERED that Debtor’s Certification filed at Document No. 13 is stricken and it is FURTHER ORDERED that Debtor shall timely complete a course on financial

management and file an Amended Certification with evidence of completion of the course.

December 6, 2005

_____/s/_____
Warren W. Bentz
United States Bankruptcy Judge

c: Joseph H. Ellermeyer, Esq.